

4. On July 20, 2015, Cunningham, LaHarpe, Moundridge, Wamego, and Zenda filed their Petition for Reconsideration, asserting it is arguable that by not issuing a ruling on the Motion within thirty days, the Commission denied the Motion by operation of law.¹ Cunningham, LaHarpe, Moundridge, Wamego, and Zenda rely on K.S.A. 77-529(b) to conclude their Motion may have been denied by operation of law.²

5. K.S.A. 77-529 is titled “Reconsideration” and K.S.A. 77-529(b) plainly refers to the filing of a petition for reconsideration. K.S.A. 77-529(b) specifically provides, “[a]n order on reconsideration altering a prior order shall be in writing and shall include findings of fact, conclusions of law and policy reasons for the decision. In proceedings before the state corporation commission, the petition is deemed to have been denied if the agency head does not dispose of it within 30 days after the filing of the petition.” The language of K.S.A. 77-529 is limited to petitions for reconsideration. Cunningham, LaHarpe, Moundridge, Wamego, and Zenda’s Motion is not a petition for reconsideration. Cunningham, LaHarpe, Moundridge, Wamego, and Zenda offer no support for any interpretation that suggests the Commission is required to act on a motion within thirty days of it being filed.

6. A petition for reconsideration must allege specific grounds for the Order’s unlawfulness or unreasonableness.³ Cunningham, LaHarpe, Moundridge, Wamego, and Zenda’s Petition for Reconsideration cannot allege the Order was in any way unlawful or unreasonable as the Commission has yet to issue an order addressing their Motion. The only basis Cunningham, LaHarpe, Moundridge, Wamego, and Zenda offer for reconsideration is as a precautionary measure to preserve their right to appeal. Cunningham, LaHarpe, Moundridge, Wamego, and

¹ Motion to Reopen Docket, Petition for Leave to Intervene and Petition for Rescission of Orders Redefining Certain Rural Telephone Company Study Areas, July 20, 2015, ¶ 2.

² *Id.*

³ *Peoples Natural Gas Div. of Northern Natural Gas v. Kansas Corp. Comm’n*, 7 Kan. App. 2d 519, 526, rev. denied 231 Kan. 801 (1982).

Zenda's Petition for Reconsideration is premature. Accordingly, the Commission denies Cunningham, LaHarpe, Moundridge, Wamego, and Zenda's Petition for Reconsideration.

THEREFORE, THE COMMISSION ORDERS:

A. Cunningham, LaHarpe, Moundridge, Wamego, and Zenda's Petition for Reconsideration is denied.

B. This order shall be served electronically.

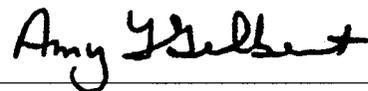
C. This Order constitutes non-final agency action.⁴ Any request for review of this action shall be filed in accordance with K.S.A. 77-608 and K.S.A. 77-613. Amy L. Gilbert, Secretary to the Commission, is the proper party to receive service of a petition for judicial review on behalf of the agency.⁵

D. The Commission retains jurisdiction over the subject matter and the parties for the purpose of entering such further orders as it deems necessary.

BY THE COMMISSION IT IS SO ORDERED.

Albrecht, Chair; Emler (recused), Commissioner; Apple, Commissioner

Dated: AUG 04 2015



Amy L. Gilbert
Secretary to the Commission

EMAILED

AUG 04 2015

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⁴ K.S.A. 77-607(b)(2).

⁵ K.S.A. 77-613(e).

AUG 04 2015

CERTIFICATE OF SERVICE

12-IWRZ-848-ETC

I, the undersigned, hereby certify that a true and correct copy of the above and foregoing Order Denying Petition for Reconsideration was served by electronic mail on this 4th day of August, 2015, to the following:

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AUG 04 2015